

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 10 March 2010 have been fully considered. However, they are moot in view of the new rejections.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Claims 40, 46, 52–55, 60, 62, 65, 67, and 73–76 are rejected under 35**

### **U.S.C. 103(a) as being obvious over US 2003/0041335 (“Patry”) in view of US 6,813,692 (“Morris”) and US 2002/0124244 (“Skaringer”).**

Claim 40. Patry teaches a television system for presenting television services to a user comprising a local memory (para. 0002); means for determining the availability of data from a data source (para. 0014); and means for capturing a stream of update data (para. 0043) and storing it in order to provide interactive television services (para. 0065). Patry does not specifically teach the protocol for transferring the update data.

Morris teaches a method for supplying interactive TV application data in a DSM-CC object carousel format (col. 1, ll. 6–13). The system uses a cache or “scratchpad”

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area and a storage area (col. 1, ll. 39–45). The data is in a form of a stream of modules having one or more payloads and identity and version numbers associated with each module (col. 1, ll. 16–21; col. 3, ll. 28–37). The system thus must parse the objects to determine the proper identity and version in order to store the objects in the cache (col. 1, ll. 29–38; col. 3, ll. 28–37). Since each file may contain multiple payloads (col. 1, ll. 16–21), the system must parse the payloads in order to extract the proper payload. The system further removes the modules from the cache area after the modules are no longer used (col. 1, ll. 38–45).

It would have been obvious to use the DSM-CC object carousel as taught by Morris to deliver the update data of Patry for the purpose of using a well-known transmission protocol, thus achieving compatibility with other devices using the protocol. Such a modification would have yielded predictable results because the DSM-CC protocol is effective for delivering application data to a user device (Morris col. 1, ll. 6–10) as required by Patry's application updating system.

Skaringer further teaches a DSM-CC object carousel method (para. 0005) whereby modules are analyzed to determine whether there are any links to any other required objects, and if so, the required objects are downloaded and processed (para. 0011).

It would have been obvious to implement Skaringer's method in order to download all the required modules.

Claim 46. Patry further teaches broadcasting the data update on a platform-independent channel (paras. 0052, 0053) and the system converting the data update into a local executable (para. 0001).

Claim 52. Patry further teaches that the system is operable to perform the capturing/downloading while the system is not presenting services (paras. 0044, 0066).

Claim 53. Patry further teaches that the data source is a broadcast television network (para. 0003).

Claim 54. Patry further teaches determining whether update data has a higher version than the saved data and downloading the data appropriately (para. 0063).

Claim 55. Patry further teaches powering up portions of the system prior to receipt of the data (para. 0066).

Claim 60. Patry further teaches the system comprising a set-top-box (a decoder/receiver, para. 0002).

Claim 62. Patry further teaches the data update comprising executables (para. 0001).

Claim 65. Patry further teaches the method executed by the system of claim 40.

Claims 67, and 73–75 are analogous to claims 46, 52, 53, and 60 and are met as such.

Claim 76. Patry further teaches a computer program product comprising code for implementing the method of claim 65.

**Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of Morris, Skaringer, and WO98/50861 ("Perlman").**

Claim 42. Patry does not further disclose means for detecting the presence of an external device.

Perlman discloses a television host system that automatically detects the presence and identity of a hardware adapter (pg. 1, l. 33 – pg. 2, l. 9).

It would have been obvious to have implemented the automatic peripheral recognition disclosed by Perlman in the system of Patry for the purpose of allowing the user to connect peripheral devices that are automatically recognized by the system for downloading of device drivers (pg. 1, l. 25-30).

Claim 43. Patry in view of Perlman further teaches that a data object containing executable driver software is downloaded conditionally upon the presence and identity of a hardware adapter (Perlman pg. 1, l. 33 – pg. 2, l. 9).

**Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of Morris, Skaringer, and Perlman, further in view of US 6930598 ("Weiss").**

Claim 44. Patry in view of Perlman does not explicitly teach that the external hardware adapter may be a communications adapter.

Weiss discloses a method for switching communication means by plugging in a communications adapter (col. 6, lls. 19-25).

It would have been obvious to have used the method for switching communication means with the system of Patry in view of Perlman for the purpose of allowing the user to easily create connections with diverse devices by plugging in adaptors that establish links between the devices.

Claim 45. Patry in view of Perlman and Weiss further discloses that the communications adapter communicates via wireless means (Weiss col. 6, l. 19-25).

**Claims 47–51, 56, 64, 68–72, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of Morris, Skaringer, and WO 00/64180 (“Del Sordo”).**

Claim 47. Patry teaches a nonvolatile memory (para. 0004), but does not further teach a volatile memory.

Del Sordo teaches that set top boxes may comprise both volatile and non-volatile memories (RAM is volatile memory, see Fig. 3).

It would have been obvious to include a volatile memory in the system of Patry for the purpose of temporarily storing data in RAM in order to quickly access the data.

Claim 48. Del Sordo further teaches that a first memory area may be volatile (Del Sordo Fig. 3).

Claim 49. Del Sordo further teaches that a volatile memory may be RAM (Fig. 3). Del Sordo does not explicitly teach that the RAM is DRAM.

However, due to the limited number of types of RAM available, the selection of DRAM would have been obvious to try to one of ordinary skill in the art.

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Claim 50. Patry in view of Del Sordo does not further teach that the nonvolatile memory is a hard drive.

However, due to the limited number of types of nonvolatile memories available, the selection of a hard drive would have been obvious to try to one of ordinary skill in the art.

Claim 51. Patry does not explicitly teach that the first and second portions of data are processed based on steps prescribed in code contained within a downloaded object.

Del Sordo teaches that the base code, platform code, and O/S code are all downloaded objects (pgs. 8, 9).

It would have been obvious to apply Del Sordo's teaching so that Patry's data update system can update the base code, platform code, and O/S code in order to keep such code up to date. The above underlying codes handle the operation of the system and thus prescribe how Patry's system processes the incoming first and second portions, so the claim is met.

Claim 56. Patry does not further teach that a portion of the captured data comprises a service entitlement or disentitlement message addressed to the system.

Del Sordo teaches that an updateable host system may receive entitlement management messages from the headend (pg. 13).

It would have been obvious to include entitlement management messages in the system of Patry for the purpose of managing the system's entitlements.

Claim 64. Patry does not further teach using a checksum or digital signature.

Del Sordo teaches that downloaded objects may be verified using a digital signature (pg. 16, lls. 14–21).

It would have been obvious to implement digital signatures in the system of Patry for the purpose of validating and authorizing the downloaded data objects.

Claims 68–72 are met as indicated above.

Claim 77 is further met as indicated above.

**Claims 57–59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of Morris, Skaringer, and US 2003/0217369 (“Heredia”).**

Claim 57. Patry does not further teach that interactive services comprise EPGs.

Heredia teaches that interactive services comprise EPGs (para. 0002).

It would have been obvious for Patry’s interactive service application to include an EPG application for the purpose of providing program guide data to the user in an interactive format.

Claim 58. Patry in view of Heredia further teaches that interactive services comprise games (Heredia para. 0002).

Claim 59. Patry in view of Heredia further teaches that interactive services comprise recording/playing stored videos (Heredia para. 0002).

Claim 63. Patry in view of Heredia further teaches that the second portion may comprise data for determining the appearance of the interactive service (the data update may add new functionality, Patry para. 0001. New functionality thus may be

applied to a graphical user interface, Heredia para. 0002; which determines the onscreen appearance of the interface).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvoldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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